



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2005 REGULAR SESSION

---

SENATE BILL NO. 102

---

THURSDAY, FEBRUARY 10, 2005

---

The following bill was reported to the House from the Senate and ordered to be printed.

RECEIVED AND FILED  
DATE March 18, 2005  
11:18 AM.  
\_\_\_\_\_  
TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adler

AN ACT relating to the Kentucky Parole Board and declaring an emergency.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1       Section 1. KRS 439.320 is amended to read as follows:

- 2       (1) The Governor shall appoint a Parole Board consisting of seven (7) full-time  
3       members and two (2) part-time members, as described in subsection (7) of this  
4       section, to be confirmed by the Senate in accordance with KRS 11.160. Each of the  
5       two (2) part-time members shall be from a different political party. The Governor  
6       shall make each appointment for full-time and part-time members from a list of  
7       three (3) names given to him by the Commission on Correction and Community  
8       Service. Each member appointed to the board shall have had at least five (5) years  
9       of actual experience in the field of penology, correction work, law enforcement,  
10      sociology, law, education, social work, medicine, or a combination thereof, or have  
11      served at least five (5) years previously on the Parole Board. No more than five (5)  
12      board members shall be of the same political party. The board shall be attached to  
13      the Justice Cabinet for administrative purposes only; the Department of Corrections  
14      shall provide any clerical, stenographic, administrative, and expert staff assistance  
15      the board deems necessary to carry out its duties.
- 16      (2) The Governor shall name one (1) full-time member as chairman of the board.
- 17      (3) The full-time members of the board shall give full time to the duties of their office  
18      and shall receive necessary traveling expenses and a salary to be determined  
19      pursuant to KRS 64.640(2), except the chairman of the board shall receive  
20      additional compensation of one thousand dollars (\$1,000) per year for his services.  
21      Their terms of office shall be four (4) years and until their successors are appointed  
22      and have qualified. Their successors shall be appointed thereafter as provided in this  
23      section for terms of four (4) years, and a vacancy occurring before expiration of the  
24      term of office shall be similarly filled for the unexpired term. The chairman of the  
25      board shall serve as such until the expiration of his term at which time the Governor

1 shall name his successor and designate the chairman of the board. If a vacancy  
 2 occurs in the chairmanship of the board before the expiration of the term, the  
 3 Governor may name a successor to serve for the remainder of the unexpired term.

4 (4) The organization of the board shall be determined by the chairman and shall be  
 5 consistent with administrative regulations promulgated pursuant to Section 2 of  
 6 this Act. For policy and procedural matters, four (4) members shall constitute a  
 7 quorum. Parole and final parole revocation hearings may be done by panels of  
 8 the board, subject to the following requirements;

9 (a) If a two (2) member panel is utilized, both members of the panel shall agree  
 10 on the decision or the matter shall be referred to the full board;

11 (b) If a three (3) member panel is utilized, two (2) of the three (3) members of  
 12 the panel shall agree on a decision or the matter shall be referred to the full  
 13 board; and

14 (c) If a panel of four (4) or more members is utilized, a majority of the panel  
 15 shall agree on a decision or the matter shall be referred to the full~~and a~~  
 16 ~~quorum of the board shall be as follows:~~

17 ~~(a) For parole hearings at which the inmate appears before the board, three (3)~~  
 18 ~~members; and~~

19 ~~(b) For all other business, four (4) members. A decision by any three (3) member~~  
 20 ~~panel in a parole hearing shall be final only if it is unanimous; otherwise the~~  
 21 ~~case must be reviewed and voted on by not less than four (4) members of the~~  
 22 ~~board. Parole decisions for inmates who do not appear before the board shall~~  
 23 ~~be reviewed and voted on by not less than four (4) members of the} board.~~

24 (5) The Governor may not remove any member of the board except for disability,  
 25 inefficiency, neglect of duty, or malfeasance in office. Before removal, he shall give  
 26 the member a written copy of the charges against him and shall fix the time when he  
 27 can be heard in his defense, which shall not be less than ten (10) days thereafter.

1       Upon removal, the Governor shall file in the office of the Secretary of State a  
2       complete statement of all charges made against the member and the findings  
3       thereupon with a record of the proceedings.

4       (6) Upon the expiration of the terms of office of the two (2) full-time board members  
5       whose terms expire May 23, 1994, the Governor shall appoint two (2) full-time  
6       members to serve terms which will expire June 30, 1995. Thereafter, appointments  
7       to these two (2) full-time terms shall be for four (4) years and shall be filled as  
8       provided for in subsection (3) of this section. The Governor may reappoint present  
9       members if they meet the qualifications set forth in subsection (1) of this section.

10      (7) The part-time members may participate in considering the grant or revocation of  
11      parole at the request of the chairman. No more than one (1) part-time Parole Board  
12      member shall serve on any panel of the board as set forth in subsection (4) of this  
13      section. The part-time Parole Board member called upon to serve shall be paid at a  
14      per diem rate equal to the per diem rate for the salary of a newly appointed full-time  
15      member and shall receive necessary travel expenses. The part-time Parole Board  
16      member shall serve for a period of four (4) years from the date of appointment and  
17      may be reappointed.

18      (8) The office of executive director of the Parole Board is created. The office shall be  
19      headed by an executive director who shall be appointed by and directly responsible  
20      to the secretary of the Justice Cabinet in matters relating to administration. The  
21      executive director shall be responsible for the support services to the Parole Board  
22      in the area of financial, personnel, and facilities management; shall provide  
23      recommendations on administrative issues affecting the board to the secretary of the  
24      Justice Cabinet, the chairman of the Parole Board, and Parole Board members; shall  
25      review and draft legislation and promulgate administrative regulations for the  
26      board; and shall review parole data and conduct long-range planning as relevant to  
27      the planning needs of the board.

1 Section 2. KRS 439.340 is amended to read as follows:

- 2 (1) The board may release on parole persons confined in any adult state penal or  
3 correctional institution of Kentucky or sentenced felons incarcerated in county jails  
4 eligible for parole. All paroles shall issue upon order of the board duly adopted. As  
5 soon as practicable after his admission to an adult state penal or correctional  
6 institution or county jail if he is a sentenced felon, and at such intervals thereafter as  
7 it may determine, the Department of Corrections shall obtain all pertinent  
8 information regarding each prisoner, except those not eligible for parole. The  
9 information shall include his criminal record, his conduct, employment, and attitude  
10 in prison, and the reports of physical and mental examinations that have been made.  
11 The Department of Corrections shall furnish the circumstances of his offense and  
12 his previous social history to the institution and the board. The Department of  
13 Corrections shall prepare a report on any information it obtains. It shall be the duty  
14 of the Department of Corrections to supplement this report with any material the  
15 board may request and submit the report to the board.
- 16 (2) Before granting the parole of any prisoner, the board shall consider the pertinent  
17 information regarding the prisoner and shall have him appear before it for interview  
18 and hearing. The board in its discretion may hold interviews and hearings for  
19 prisoners convicted of Class D felonies. The board in its discretion may request the  
20 parole board of another state confining prisoners pursuant to KRS 196.610 to  
21 interview eligible prisoners and make a parole recommendation to the board. A  
22 parole shall be ordered only for the best interest of society and not as an award of  
23 clemency, and it shall not be considered a reduction of sentence or pardon. A  
24 prisoner shall be placed on parole only when arrangements have been made for his  
25 proper employment or for his maintenance and care, and when the board believes he  
26 is able and willing to fulfill the obligations of a law abiding citizen.  
27 Notwithstanding any statute to the contrary, including KRS 440.330, when a

1 prisoner is otherwise eligible for parole and the board has recommended parole for  
2 that prisoner for the reasons set forth in subsection (2) of this section, the board may  
3 grant parole to any prisoner wanted as a fugitive by any other jurisdiction, and the  
4 prisoner shall be released to the detainer from that jurisdiction. Such parole shall  
5 not constitute a relinquishment of jurisdiction over the prisoner, and the board in all  
6 cases expressly reserves the right to return the prisoner to confinement in a  
7 correctional institution of the Commonwealth if the prisoner violates the terms of  
8 his or her parole.

9 (3) The board shall adopt administrative regulations with respect to the eligibility of  
10 prisoners for parole, the conduct of parole and parole revocation hearings and all  
11 other matters that come before it, or conditions to be imposed upon parolees.

12 Regulations governing the eligibility of prisoners for parole shall be in accordance  
13 with professionally accepted ideas of correction and reform and may utilize in part  
14 objective, performance-based criteria; however, nothing herein contained shall  
15 preclude the board from utilizing its present regulations in conjunction with other  
16 factors involved that would relate to the inmate's needs and the safety of the public.

17 (4) The board shall insure that sentenced felons confined in county jails are considered  
18 for parole within thirty (30) days of their parole eligibility date and the Department  
19 of Corrections shall provide the necessary assistance and information to the board in  
20 order for it to conduct timely parole reviews.

21 (5) In addition to or in conjunction with each hearing conducted under subsection (2) of  
22 this section for any prisoner convicted of a Class A, B, or C felony and prior to the  
23 granting of a parole to any such prisoner, the parole board shall conduct a hearing of  
24 which the following persons shall receive not less than forty-five (45) nor more than  
25 ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff  
26 of every county and the chief of police of every city and county in which the  
27 prisoner committed any Class A, B, or C felony for which he is imprisoned, and all

1 identified victims of the crimes or the next of kin of any victim who is deceased.  
 2 Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means  
 3 at the discretion of the board, and shall be in a manner that ensures receipt at the  
 4 Commonwealth Attorney's~~[to his]~~ business office. Notices received by chiefs of  
 5 police and sheriffs shall be posted in a conspicuous location where police employed  
 6 by the department may see it. Notices shall be posted in a manner and at a time that  
 7 will allow officers to make comment thereon to the Parole Board. Notice to victims  
 8 or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986,  
 9 by mail, fax, or electronic means at the discretion of the board, and shall be in a  
 10 manner that ensures receipt by~~[to]~~ the Commonwealth's attorney who shall  
 11 forward the notice promptly to the victims or their next of kin at their last known  
 12 address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or  
 13 their next of kin shall be by mail from the Parole Board to their last known address  
 14 as provided by the Commonwealth's attorney to the Parole Board at the time of  
 15 incarceration of the prisoner. Notice to the victim or the next of kin of subsequent  
 16 considerations for parole after the initial consideration shall not be sent if the victim  
 17 or the next of kin gives notice to the board that he or she no longer wants to receive  
 18 such notices. The notice shall include the time, date, and place of the hearing  
 19 provided for in this subsection, and the name and address of a person to write if the  
 20 recipient of the notice desires to attend the hearing or to submit written comments.

21 (6) Persons receiving notice as provided for in subsection (5) of this section may  
 22 submit comments, in person or in writing, to the board upon all issues relating to the  
 23 parole of the prisoner. The board shall read and consider all comments prior to  
 24 making its parole decision, if they are received by the board not less than seven (7)  
 25 days before the date for the hearing. The board shall retain all comments in the  
 26 prisoner's permanent Parole Board file, and shall consider them in conjunction with  
 27 any subsequent parole decisions affecting the prisoner. In addition to officers listed

1 in subsection (5) of this section, the crime victims or the next of kin of any victim  
2 who is deceased or who is disabled and cannot attend the hearing or the parent or  
3 legal guardian of any victim who is a minor may attend the hearing provided for in  
4 subsection (5) of this section and present oral and written comments upon all issues  
5 relating to the parole of the prisoner, if they have advised the board, in writing  
6 received by the board not less than seven (7) days prior to the date set for the  
7 hearing, of their intention to attend the hearing. The board shall receive and  
8 consider all comments, shall make a record of them which it shall retain in the  
9 prisoner's permanent Parole Board file, and shall consider them in conjunction with  
10 any subsequent parole decision affecting the prisoner. Persons appearing before the  
11 Parole Board pursuant to this subsection may elect to make their presentations  
12 outside of the presence of the prisoner.

13 (7) Victims of Class D felonies may submit comments in person or in writing to the  
14 board upon all issues relating to the parole of a prisoner.

15 (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be  
16 open to the public unless the persons having a right to appear before the board as  
17 specified in those subsections request closure of hearing for reasons of personal  
18 safety, in which event the hearing shall be closed. The time, date, and location of  
19 closed hearings shall not be disclosed to the public.

20 (9) Except as specifically set forth in this section, nothing in this section shall be  
21 deemed to expand or abridge any existing rights of persons to contact and  
22 communicate with the Parole Board or any of its members, agents, or employees.

23 (10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its  
24 members, agents, or employees or by a Commonwealth's attorney or any of his  
25 agents or employees to comply with any of the provisions of subsections (5), (6),  
26 and (8) of this section shall not affect the validity of any parole decision or give rise  
27 to any right or cause of action by the crime victim, the prisoner, or any other person.



1 (11) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be  
2 granted parole unless he has successfully completed the Sexual Offender Treatment  
3 Program.

4 (12) Any prisoner who is granted parole after completion of the Sexual Offender  
5 Treatment Program shall be required, as a condition of his parole, to participate in  
6 regular treatment in a mental health program approved or operated by the  
7 Department of Corrections.

8 (13) When an order for parole is issued, it shall recite the conditions thereof.

9 Section 3. KRS 439.330 is amended to read as follows:

10 (1) The board shall:

11 (a) Study the case histories of persons eligible for parole, and deliberate on that  
12 record;

13 (b) Conduct reviews and hearings on the desirability of granting parole;

14 (c) Impose upon the parolee or conditional releasee such conditions as it sees fit;

15 (d) Order the granting of parole;

16 (e) Issue warrants for persons charged with violations of parole and conduct  
17 hearings on such charges, subject to the provisions of KRS 439.341;

18 (f) Determine the period of supervision for parolees, which period may be subject  
19 to extension or reduction after recommendation of the cabinet is received and  
20 considered; and

21 (g) Grant final discharge to parolees.

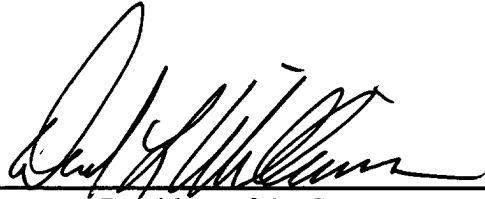
22 (2) The board shall adopt an official seal of which the courts shall take judicial notice.

23 (3) The orders of the board shall not be reviewable except as to compliance with the  
24 terms of KRS 439.250 to 439.560.

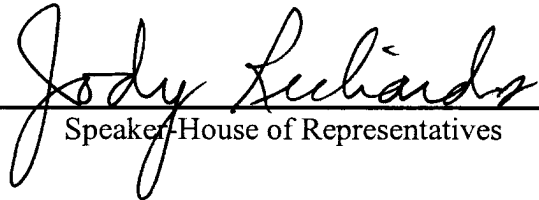
25 (4) The board shall keep a record of its acts, an electronic record of its meetings, a  
26 written record of the votes of individual members, and the reasons for denying  
27 parole to inmates. These records shall be public records in accordance with KRS

1        61.870 to 61.884. The board shall notify each institution of its decisions relating to  
2        the persons who are or have been confined therein, and shall submit to the Governor  
3        a report with statistical and other data of its work at the close of each fiscal year.

4        Section 4.    Whereas the workload of the Kentucky Parole Board has increased  
5        dramatically over the past several years and the changes in the operational structure  
6        contained in this Act will permit the Parole Board to carry out its responsibilities, duties,  
7        and functions in a more judicious and timely fashion, thereby increasing public safety, an  
8        emergency is declared to exist, and this Act shall take effect upon its passage and  
9        approval by the Governor or upon its otherwise becoming law.

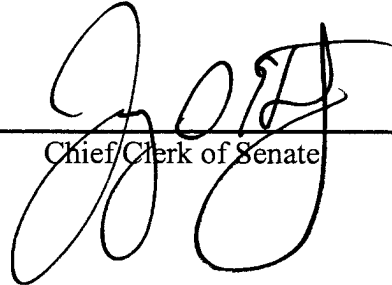


President of the Senate



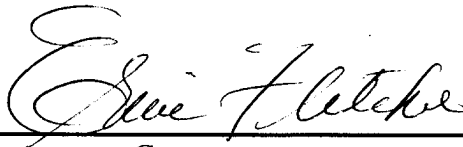
Speaker House of Representatives

Attest:



Chief Clerk of Senate

Approved



Governor

Date

